

CALIFORNIA COASTAL COMMISSION

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F9**MEMORANDUM**

February 4, 2004

TO: Commissioners and Interested Parties

FROM: Charles Lester, Deputy Director
Steve Monowitz, Coastal Planner

RE: **Annual Review of Coastal Development Permit Amendment 4-82-200-A5 for the Oceano Dunes State Vehicle Recreation Area (ODSVRA), San Luis Obispo County.** For public hearing and possible Commission action at its meeting of February 20, 2004 in San Diego.

I. Staff Recommendation:

Staff recommends that the Commission take no action to change the terms of Coastal Development Permit 4-82-300-A5, and send a letter to the Superintendent of the Oceano Dunes State Vehicular Recreation Area, urging full implementation of the ODSVRA Technical Review Team Scientific Subcommittee recommendations (attached as Exhibit 2).

II. Procedural Summary:

In 1982 the Coastal Commission approved Coastal Development Permit (CDP) No. 4-82-300 for the construction of habitat fencing and entrance kiosks at Oceano Dunes State Vehicular Recreation Area (ODSVRA). That permit and subsequent amendments have established limits to the numbers of vehicles and campsites allowed, and required ongoing reviews to ensure that off-highway vehicle (OHV) recreation is managed consistent with the protection of sensitive dune habitats.

Various processes have been used to comply with this requirement. On February 14, 2001, the Commission endorsed (via Coastal Development Permit Amendment 4-82-300-A5) State Park's proposal to establish a Technical Review Team (TRT)¹ as an alternative to the carrying capacity approach established in 1994. The TRT was created to oversee monitoring of environmental and use trends in the Park and advise the Superintendent on resource management issues. As a condition of Commission approval, the TRT was required to include a Scientific Subcommittee that was to identify, develop and evaluate the scientific information needed by decision makers to ensure that the natural resources are adequately managed and protected. The Commission also required the amendment to be renewed annually. Specifically, Special Condition 2 states:

¹ The Coastal Commission adopted Revised Findings in support of this action on May 7, 2001.

Renewal of Permit. Annually, the Commission shall review the overall effectiveness of the Technical Review Team in managing vehicle impacts at the ODSVRA. If the Commission is satisfied with the review, this amendment will remain in effect for an additional year. A longer permit may be requested in the future. Otherwise, an alternative approach to resource management, or set of management measures, may be instituted through this review process.

This is the third annual review being conducted pursuant to Special Condition 2. In 2001 and 2002, the Commission took no action to change the terms of the Coastal Development Permit. However, at the March 7, 2003 review, the Coastal Commission voted to send a letter to the Park Superintendent, recommending expansion of fencing to protect Snowy Plover habitat during the 2003 nesting season, in accordance with the suggestions of the TRT's Scientific Subcommittee. According to this year's Scientific Subcommittee report (attached as Exhibit 2), the recommended expansion area was closed to vehicles too late in the season, and therefore provided little benefit to breeding plovers in 2003.

III. Analysis:

The annual review required by 4-82-300-A5 provides the Commission with an opportunity to review whether the TRT is providing an effective means of managing vehicle impacts, and where necessary, institute alternative approaches and/or management measures. In order to analyze the effectiveness of the TRT in accordance with this condition, the Commission must consider the progress that TRT has made in identifying and analyzing resource management issues, and evaluate whether current management measures are adequately protecting coastal resources. A full set of the conditions established by 4-82-300-A5 is attached as Exhibit 3.

A. TRT Effectiveness

The TRT process formulated by State Parks and approved by Coastal Development Permit Amendment 4-82-300-A5 establishes specific annual requirements based on a three-year start-up period. Special Condition 5 requires the TRT and the ODSVRA Superintendent to submit annual reports that summarize recreational use and habitat trends at the park, and that highlight TRT accomplishments. As specified by Special Condition 5, the third annual report is to also include a status report on research and management questions that were to be prioritized and scoped during the TRT's second year. The third annual report is also to update research and management priorities and their corresponding scopes of work.

The cover letter for the submitted third annual report is attached as Exhibit 1, and its various attachments can be obtained by contacting the Commission staff (the full report will also be available for review at the February 20, 2004 public hearing). The report partly addresses the requirements of Special Condition 5 by providing a summary of recreational use, and highlighting TRT and Scientific Subcommittee activities and accomplishments during 2003. The submitted information indicates that 2003 recreational use levels stayed within the limits established under CDP 4-82-300-A5, and that the TRT's evaluation of management issues was

largely focused on a review of the Point Reyes Bird Observatory Report on Least Tern and Snowy Plover nesting during the 2003 season, and the associated recommendations of the Scientific Subcommittee. In general, the TRT agreed with recommendations that called for modifications and improvement to the existing management program, but was divided on recommendations that called for expanding the protected nesting area and keeping the protected area off-limits to vehicles on a year-round basis (as opposed to only during the nesting season).

Other topics of TRT discussion included issues regarding the Arroyo Grande levee, flood control, and steelhead habitat; alternative access routes; park fees and fines; economic impacts of the park on the neighboring communities; scopes of work for the wintering shorebird and night riding studies; and the status and content of the Habitat Conservation Plan (HCP) currently being developed. The TRT facilitator described the TRT's consensus on four principles that should guide the HCP as "a significant meeting of the minds on the core issues and interests for the group as a whole" (please see page 4 of the Exhibit 1 for more detail). Other outcomes and future TRT action items that were generated by these discussions are summarized on pages 7 – 9 of Exhibit 1. The annual report cover letter prepared by the TRT facilitator concludes that "Overall, the TRT has shown considerable leadership in charting substantive progress and making meaningful and high quality contributions to the monitoring and management responsibilities assigned to it by the Commission."

Notwithstanding this progress, the TRT has failed to satisfy the terms of Coastal Development Permit 4-82-300-A5 because it has not finalized the work programs needed to address priority research and management questions, and, as a result, has not made any progress in completing priority research tasks. Under the framework established by Special Condition 5, the TRT was to identify such priorities, taking into consideration specific suggestions of the Commission, and work with its Scientific Subcommittee to develop scopes of work to complete these tasks by the end of its second year. Of the studies recommended by the Scientific Subcommittee on December 4, 2002, (included in the second annual report and attached to this report as Exhibit 4), only limited progress has been made towards the development of a scope of work for the proposed Wintering Shorebirds and Night Riding studies.

As part of the second annual review, the Commission identified the development and implementation of priority research tasks as a critical need for the TRT's third year, so that the research could be applied to the development of long-term management measures in coordination with the Habitat Conservation Plan currently under development. The continued lack of progress in this regard has interfered with the TRT's ability to provide the level of input on park management issues envisioned by CDP 4-82-300-A5. Rather than developing and pursuing an independent set of research and management questions and priorities, the TRT has, for the most part, only reacted to the studies and recommendations developed by the Point Reyes Bird Observatory. While the TRT has discussed other relevant management issues (e.g., the protection of Steelhead in Arroyo Grande creek, alternative park access routes, and the scope and status of the upcoming HCP), these discussions have occurred outside of the process for prioritizing research tasks established by CDP 4-82-300-A5, and without regard to the priority research tasks suggested by the Scientific Subcommittee in 2003. Special Condition 5 of CDP 4-

82-300-A5 specifically requires annual reports to identify the basis under which the TRT prioritized its work for the year. Such a discussion is not contained in the submitted annual report.

Nevertheless, the TRT continues to be a useful forum for interested parties to discuss park management issues, and the Scientific Subcommittee continues to provide valuable input regarding management measures and research needs. While the focus on evaluating PRBO recommendations has not effectively carried out the terms of 4-82-300-A5, it has provided the TRT and Scientific Subcommittee with the opportunity to provide detailed comments on current management issues of concern, which may indeed be an appropriate priority given the importance of these annual management decisions and the divergent positions of the interested parties. However, to achieve compliance with CDP 4-82-300-A5, the TRT must expand its role to address the broader research and management questions and projects identified by the permit, and develop a more systematic process for establishing priorities. Renewal of the permit without change will provide the TRT with an opportunity to address this need.

Another concern about the TRT's ability to provide effective input on park management issues is the unwillingness of some of its members to endorse any modifications to park management techniques that would diminish recreational opportunities. Such opposition has prevented the TRT from reaching consensus on the recommendations of the Scientific Subcommittee to extend the protected nesting area northward to post marker 6, and to maintain the fencing to protect nesting areas on a year round basis.

Finally, the TRT's advisory role to the park superintendent does not effectively ensure that the adaptive management measures developed through the process will be implemented. For example, last year's Scientific Subcommittee recommendations, forwarded to the superintendent by the TRT included a recommendation to expand the protected nesting area during the 2003 nesting season. This Coastal Commission endorsed this recommendation during the second annual review, and sent a letter to the superintendent urging its implementation. Notwithstanding these recommendations, the protected area was not expanded until July 2003, apparently as a result of a settlement agreement rather than an effort to implement recommendations of the Scientific Subcommittee and Commission. According to the TRT's Scientific Subcommittee, the expansion took place too late in the nesting season to provide much benefit to nesting Snowy plovers. The delay in implementing this management change was also inconsistent with the superintendent's stated intent to implement the recommendations of the Scientific Subcommittee, as presented to the Commission in the 2003 annual review. This year's Scientific Subcommittee Report provides a full account of the 2003 recommendations that were and were not implemented by the ODSVRA (please see pages 6-8 of Exhibit 2).

ODSVRA's limited implementation of TRT Scientific Subcommittee recommendations remains a serious concern to the Commission. Recent discussions between Commission and ODSVRA staff indicate that the ODSVRA does not intend to implement this year's Scientific Subcommittee recommendations calling for an expansion of the protected nesting area, and the retention of the protective fencing on a year-round basis. As detailed in the evaluation of current

management measures provided below, there is sufficient evidence that such measures are needed to effectively protect environmentally sensitive habitat areas at the park. Accordingly, a draft letter from the Commission to the superintendent, strongly encouraging implementation of these measures, is attached to this report as Exhibit 5. By endorsing this letter, the Commission will provide the ODSVRA with the opportunity to demonstrate its commitment to the TRT process and its willingness to consider the input of its Scientific Subcommittee. Should the ODSVRA fail to address the recommendations of the Scientific Subcommittee and this Commission during the upcoming nesting season, adjustments to the terms of CDP 4-82-300-A5 will need to be considered at the next annual review.

B. Evaluation of Current Management Measures

Data regarding use trends and environmental resources at the ODSVRA provides important information regarding the effectiveness of various management approaches. A detailed analysis of multiple years of data was contained in the staff report for 4-82-300-A5, adopted by the Commission in February 2001. Data for the 2001 Snowy Plover and Least Tern nesting season was documented in a report prepared by the Point Reyes Bird Observatory (PRBO), presented to the Commission during the first annual review of the TRT, in May 2002. PRBO prepared similar reports for the 2002 and 2003 nesting seasons, which indicate a strong improvement in nesting and fledgling rates. This corresponds with statewide data, documenting 2003 as the most productive breeding year for the Western Snowy plover since the establishment of monitoring programs.

The breeding success of the local and regional populations that use the Oceano Dunes plays an important role in this statewide recovery effort. Thus, continued and improved protection of the threatened Western Snowy plover and endangered California least tern at the ODSVRA is essential for the protection and enhancement of these rare biological resources. Towards this end, State Parks has implemented a predator management program that has contributed to improved Snowy plover and Least tern fledgling success rates over the last two years. State Parks also continues to implement use limits, protective fencing, and other measures to minimize the impacts of recreational use on the parks sensitive habitat areas in accordance with the interim limits established by 4-82-300-A5, and in coordination with other wildlife agencies. Scientific Subcommittee suggested improvements to the management measures implemented by the ODSVRA in 2002 were only partly implemented by the ODSVRA in 2003, as detailed in Exhibit 2.

Notwithstanding the improved habitat protection that has been realized through the implementation of current management measures, recreational vehicle use continues to have adverse impacts on the sensitive habitats and species of the Oceano Dunes. The 2003 nesting report prepared by PRBO states that two banded juvenile terns were found dead in the open riding area during the 2003 nesting seasons. A biological analysis of the necropsy reports concludes that vehicle strikes were the likely cause of death for both birds.

With respect to the adequacy of current measures to protect nesting areas, both PRBO and the TRT Scientific Subcommittee indicated their concern that the current enclosure area is not large enough to effectively protect Snowy plovers and Least terns. The 2003 PRBO report states:

In 2002 and 2003 the size of the protected habitat at ODSVRA was increased from previous years and this has been of fundamental importance in providing adequate area for terns and plovers to nest and raise young. Protected breeding habitat of sufficient size allows nests and chicks to be dispersed which can reduce exposure and vulnerability to predators, as well as reduce adverse disturbance from human recreational activities. For plovers, it also improves opportunities for chicks to have access to adequate invertebrate food resources.

Additionally, both PRBO and the TRT Scientific Subcommittee have documented the importance of protecting the nesting area on a year round basis. The 2003 PRBO report states:

Prior to 2003, fencing has been removed from seasonally protected tern and plover breeding sites in the riding area during the non-breeding season (1 October-28 February) and opened to unrestricted recreational vehicle use. Habitat within the 7-8 Exclosure is severely degraded by vehicles repeatedly driving over the site — flattening surface relief and hummocks and crushing vegetation and organic surface features (e.g., shells, driftwood, marine algal wrack) into the sand. These features provide areas of disruptive cover for nests, which reduces exposure of incubating adults and eggs to predators, and windblown sand. Such features also provide tern and plover chicks with cover from sun, wind, and predators and, for adult plovers and chicks, sources of invertebrate prey. The loss of these features results in a compromised quality of habitat available at seasonally protected sites in the riding area at the start of the breeding season (1 March). The habitat can be slow to recover.

In 2002, the 7 Exclosure, for the first time, was fenced throughout the breeding season. However, this was insufficient time for the site to develop the desired surface relief, vegetated hummocks, and natural organic debris. In response to this observation, a portion of the 7 Exclosure (Figure 9) was closed to vehicles during the non-breeding season to see if these favorable habitat features would naturally develop. This proved to be very successful, with the habitat at the start of the 2003 breeding season greatly improved and remaining so throughout the season. In contrast, the 8 Exclosure that had been open to vehicles during the non-breeding season was severely degraded and slow to recover. The 7 Exclosure site closed to vehicles during the non-breeding season experienced a 72.7% increase in the number of plover nests in 2003 compared to 2002. This is 4.6 times the increase of 15.8% in nest numbers observed at the 8 Exclosure, which was open to vehicles in the non-breeding season. In 2003 Snowy Plover nest density in the 7 Exclosure was 2.4 times that of the 8 Exclosure (Table 5).

Members of the TRT, an independent scientist, and the TRT Scientific Subcommittee undertook critical evaluations of the recommendation for year-round closure of the nesting area to vehicle use. In light of all the information presented, the Scientific Subcommittee continues to support the conclusion in the PRBO report that excluding vehicles from the nesting area throughout the year results in both beneficial habitat changes and increased nesting during the breeding season. Accordingly, ODSVRA's indication that neither the recommended expansion in protected nesting area nor the recommended year round closure will be implemented in 2004, suggests that the management measures necessary to protect environmentally sensitive habitat areas at the park are not being implemented. This is particularly troubling since implementation of the recommended modifications would maintain significant areas of the park available for recreational use.

IV. Conclusion:

While the TRT continues to provide a useful forum for interested parties to discuss park management issues, it has not completed the work products required by CDP 4-82-300-A5, or demonstrated its ability to effectively address park management issues. Notwithstanding these deficiencies, the TRT has made progress in shifting its focus from procedural to substantive issues, indicating that it has the potential to respond to the concerns raised by this report and provide meaningful input. Renewal of CDP 4-82-300-A5 without change will provide the TRT with the opportunity to address these needs. In the interim, ODSVRA should implement the PRBO and Scientific Subcommittee recommendations necessary to manage recreational uses consistent with the protection of sensitive natural resources. Accordingly, Commission staff recommends that the Commission approve the draft letter to the ODSVRA Superintendent attached to this report as Exhibit 5.

Attached Exhibits:

- Exhibit 1: 2003 Annual Report Cover Letter
- Exhibit 2: 2003 Scientific Subcommittee Recommendations
- Exhibit 3: Special Conditions of 4-82-300-A5
- Exhibit 4: 2002 Research and Management Questions and Priorities
- Exhibit 5: Draft letter to ODSVRA Superintendent